

### **REMARKS**

Claims 1-20 are all the claims pending in the application. By this Amendment, Applicant editorially amends claims 1-3, 5-8, 10-13, and 15. The amendments to claims 1-3, 5-8, 10-13, and 15 were made for reasons of precision of language and consistency, and to broaden the scope of the claims. The amendments to claims 1-3, 5-8, 10-13, and 15 do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. The amendments to claims 1-3, 5-8, 10-13, and 15 were not made for reasons of patentability. In addition, by this Amendment, Applicant adds claims 16-20.

### **Preliminary Matters**

Applicant thanks the Examiner for initialing the references listed on Form PTO-1449 submitted with the Information Disclosure Statement filed on November 21, 2001.

The Examiner, however, failed to acknowledge the claim to foreign priority and failed to acknowledge the receipt of the certified copy of the priority document filed on November 21, 2001. Applicant respectfully requests the Examiner to acknowledge the claim to foreign priority and to confirm receipt of a certified copy of the priority document in the next office communication.

### **Summary of the Office Action**

Turning to the merits of the Office Action, the Examiner indicated that claims 2-5, 7-10, and 12-15 contain allowable subject matter and that claims 1, 6, and 11 are rejected under 35 U.S.C. § 103(a).

Claim Rejections under 35 U.S.C. § 103

Claims 1, 6, and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,667,961 to Park et al. (hereinafter “Park”) in view of U.S. Patent No. 6,628,957 to Weaver et al. (hereinafter, “Weaver”). Applicant respectfully traverses this rejection in view of the following comments.

Independent claim 1, among a number of unique features, recites “wherein said determining further comprises enabling for transmission all of the active set base stations depending on a state of transmission power value from said at least one currently transmitting base station.” The Examiner acknowledges that Park fails to teach or suggest this exemplary feature of claim 1. The Examiner, however, alleges that Weaver cures the deficient teachings of Park (see page 3 of the Office Action). Applicant respectfully disagrees.

Weaver teaches a conventional soft handoff, where all the base stations involved in the soft handoff are in the link power control with the mobile terminal. When the mobile terminal receives fairly strong pilot signals from more than one base station, *e.g.*, from three base stations, the mobile terminal is in soft handoff. This typically occurs when the mobile terminal is close to the edge of a cell. When the soft handoff occurs, all of the three base stations become the transmitting base stations transmitting control information to mobile terminal over respective forward control channels and voice or data over respective forward traffic channels (Fig. 1, col. 2, lines 26 to 40).

Weaver, however, only teaches that when a strong pilot signal is received from more than one BS, this means that the soft handoff is taking place and all the base stations will become the

transmitting base stations, transmitting control and data information to and from the mobile station. No other considerations take place in determining whether all of the base stations should be used in transmitting control and data information. Weaver does not teach or suggest enabling all of the base stations participating in the handover for transmission depending on the transmission power from the currently transmitting base station, the base station that is transmitting data before all of the base stations are enabled.

In other words, Weaver does not teach or suggest basing the decision whether to use all of the base stations participating in the handover as the transmitting base stations based on the power of the base station being currently used for transmission. In fact, Weaver only teaches a conventional soft handover procedure, where all of the base stations with a link are enabled when the strong pilot signal is received from more than one BS (not just from the currently transmitting BS). In short, Weaver does not teach enabling all of the base stations participating in the handover based on the transmission power of the currently transmitting base station.

Therefore, “wherein said determining further comprises enabling for transmission all of the active set base stations depending on a state of transmission power value from said at least one currently transmitting base station,” as recited in claim 1 is not taught or suggested by the combined teachings of Park and Weaver, which lack basing the decision to active all of the base stations from the active set based on power value of the currently transmitting base station. For at least this exemplary reason, Applicant respectfully submits that claim 1 is patentable over the combined teachings of Park and Weaver. Therefore, it is appropriate and necessary for the Examiner to withdraw this rejection of claim 1.

Independent claims 6 and 11 recite features similar to the features argued above with respect to claim 1. Therefore, these arguments are submitted to apply with equal force herein. For at least substantially similar reasons, therefore, claims 6 and 11 are patentable over the combined teachings of Park and Weaver.

#### Allowable Subject Matter

The Examiner indicated that claims 2-5, 7-10, and 12-15 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully holds the rewriting of these claims in abeyance until arguments presented with respect to independent claims 1, 6, and 11 have been reconsidered.

#### New Claim

In order to provide more varied protection, Applicant adds claims 16-20. Claims 16 and 17 are patentable at least by virtue of its dependency on claim 1, claims 18 and 19 are patentable at least by virtue of their dependency on claims 6 and 11, respectively. Claim 20 is patentable at least by virtue of its recitation of “wherein each base station from the active set of base stations becomes the at least one new transmitting base station depending on the transmission power value of the transmitting base station.”

#### Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Amendment under 37 C.F.R. § 1.111  
U.S. Application No.: 09/989,662

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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

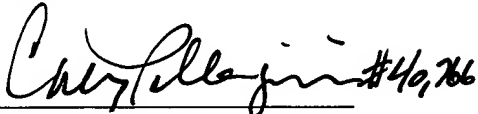
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**23373**

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